

1 EDMUND G. BROWN JR., Attorney General
of the State of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 JONATHAN D. COOPER, State Bar No. 141461
Deputy Attorney General
4 California Department of Justice
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-1404
6 Facsimile: (415) 703-5480

7 Attorneys for Complainant

8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

12 **LORI SUE SCHROEDER**
13 **aka LORI SCHROEDER**
14 2064 Tuxhorn Dr.
Santa Rosa, CA 95407

15 Registered Nurse License No. 542727

16 Respondent.

Case No. 2010-2466

OAH No.

ACCUSATION

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
20 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department
21 of Consumer Affairs.

22 2. On or about April 16, 1998, the Board of Registered Nursing issued Registered
23 Nurse License Number 542727 to Lori Sue Schroeder (Respondent). The License was in full
24 force and effect at all times relevant to the charges brought herein and will expire on October 31,
25 2011, unless renewed.

26 **JURISDICTION**

27 3. This Accusation is brought before the Board of Registered Nursing (Board),
28 Department of Consumer Affairs, under the authority of the following laws. All section

1 references are to the Business and Professions Code unless otherwise indicated.

2 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent
3 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
4 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
5 Nursing Practice Act.

6 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a
7 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
8 against the licensee or to render a decision imposing discipline on the license. Under section
9 2811(b) of the Code, the Board may renew an expired license at any time within eight years after
10 the expiration.

11 **STATUTORY AND REGULATORY PROVISIONS**

12 6. Section 822 of the Code states:

13 If a licensing agency determines that its licentiate's ability to practice his or her
14 profession safely is impaired because the licentiate is mentally ill, or physically ill affecting
15 competency, the licensing agency may take action by any one of the following methods:

16 (a) Revoking the licentiate's certificate or license.

17 (b) Suspending the licentiate's right to practice.

18 (c) Placing the licentiate on probation.

19 (d) Taking such other action in relation to the licentiate as the licensing agency in its
20 discretion deems proper.

21 The licensing agency shall not reinstate a revoked or suspended certificate or license until
22 it has received competent evidence of the absence or control of the condition which caused its
23 action and until it is satisfied that with due regard for the public health and safety the person's
24 right to practice his or her profession may be safely reinstated.

25 7. Section 2761 of the Code states, in pertinent part:

26 The board may take disciplinary action against a certified or licensed nurse or deny an
27 application for a certificate or license for any of the following:

28 (a) Unprofessional conduct . . .

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2 8. Section 2762 of the Code states, in pertinent part:

3 In addition to other acts constituting unprofessional conduct within the meaning of this
4 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
5 chapter to do any of the following:

6 (a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed
7 physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or
8 administer to another, any controlled substance as defined in Division 10 (commencing with
9 Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as
10 defined in Section 4022.

11 (b) Use any controlled substance as defined in Division 10 (commencing with Section
12 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
13 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
14 himself or herself, any other person, or the public or to the extent that such use impairs his or her
15 ability to conduct with safety to the public the practice authorized by his or her license.

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17 9. California Code of Regulations, Title 16, section 1444, states:

18 A conviction or act shall be considered to be substantially related to the qualifications,
19 functions or duties of a registered nurse if to a substantial degree it evidences the present or
20 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
21 safety, or welfare. Such convictions or acts shall include but not be limited to the following:

22 (a) Assaultive or abusive conduct including, but not limited to, those violations listed in
23 subdivision (d) of Penal Code Section 11160.

24 (b) Failure to comply with any mandatory reporting requirements.

25 (c) Theft, dishonesty, fraud, or deceit.

26 (d) Any conviction or act subject to an order of registration pursuant to Section 290 of the
27 Penal Code.

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1 **DANGEROUS DRUGS/CONTROLLED SUBSTANCES**

2 10. Section 4021 of the Code states:

3 "'Controlled substance' means any substance listed in Chapter 2 (commencing
4 with Section 11053) of Division 10 of the Health and Safety Code."

5 11. Section 4022 of the Code states:

6 "Dangerous drug" or "dangerous device" means any drug or device unsafe for self-use,
7 except veterinary drugs that are labeled as such, and includes the following:

8 (a) Any drug that bears the legend: "Caution: federal law prohibits dispensing without
9 prescription," "Rx only," or words of similar import.

10 (b) Any device that bears the statement: "Caution: federal law restricts this device to sale
11 by or on the order of a _____," "Rx only," or words of similar import, the blank to be filled
12 in with the designation of the practitioner licensed to use or order use of the device.

13 (c) Any other drug or device that by federal or state law can be lawfully dispensed only on
14 prescription or furnished pursuant to Section 4006."

15 **COST RECOVERY**

16 12. Section 125.3 of the Code provides, in pertinent part, that the Board may request
17 the administrative law judge to direct a licentiate found to have committed a violation or
18 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
19 and enforcement of the case.

20 **FACTUAL SUMMARY**

21 13. On or about August 21, 2008, Respondent used another person's name to
22 telephone a prescription from Memorial Hospital in Santa Rosa, California, to the Target
23 pharmacy in Santa Rosa, California. The prescription was for Respondent to receive Norco, a
24 dangerous drug and a controlled substance under California law. This medication had not been
25 prescribed for Respondent.

26 14. On or about August 21, 2008, Respondent unsuccessfully attempted to fill the
27 prescription. Respondent stated, when apprehended, that she had previously been addicted to
28 prescription medications. She stated that she had been clean for 101 days, but that her attempt to

1 obtain Norco was motivated by her desire to use drugs again.

2 15. On or about December, 2008, Respondent entered the Board's "Maximus"
3 diversion program. Pursuant to the program requirements, Respondent was required to submit
4 urine tests and participate in treatment for substance abuse issues.

5 16. On or about March 9, 2009, Respondent was evaluated by a psychologist and was
6 diagnosed with "Narcotic Addiction in remission during treatment."

7 17. On or about March 16, 2009, a sample of Respondent's urine was tested and
8 found to contain amphetamine.

9 18. On or about March 20, 2009, a sample of Respondent's urine was tested and
10 found to be diluted, constituting a presumptive positive test.

11 19. On or about June 11, 2009, a sample of Respondent's urine was tested and found
12 to contain amphetamine.

13 20. On or about June 17, 2009, a sample of Respondent's urine was tested and found
14 to contain amphetamine.

15 21. On or about July 12, 14 and 16, 2009, Respondent failed to complete urine tests as
16 required by the Maximus diversion program.

17 22. On or about July, 2009, the Maximus diversion program terminated Respondent
18 from the program due to Respondent's positive tests and missed tests and due to Respondent's
19 refusal to enroll in and complete a residential treatment program. On or about August 4, 2009,
20 pursuant to California Business and Professions Code section 2770.11, the program informed the
21 Board that Respondent is a public safety risk and/or is at risk of harming herself.

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24 **FIRST CAUSE FOR DISCIPLINE**

25 (Unprofessional Conduct)

26 23. Respondent is subject to disciplinary action under section 2761(a) of the Code and
27 under California Code of Regulations, Title 16, section 1444, in that she acted unprofessionally,
28 as set forth above in paragraphs 13 - 22.

1 **SECOND CAUSE FOR DISCIPLINE**

2 (Unlawful Possession of Drugs)

3 24. Respondent is subject to disciplinary action under sections 2761(a) and 2762(a) of
4 the Code in that she unlawfully possessed a controlled substance as defined in Division 10
5 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or
6 dangerous device as defined in Section 4022, as set forth above in paragraphs 13 - 22.

7 **THIRD CAUSE FOR DISCIPLINE**

8 (Unlawful/Dangerous Use of Drugs)

9 25. Respondent is subject to disciplinary action under sections 2761 and 2762(b) of
10 the Code in that she used a controlled substance as defined in Division 10 (commencing with
11 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as
12 defined in Section 4022, to an extent or in a manner dangerous or injurious to herself, any other
13 person, or the public or to the extent that such use impairs her ability to conduct with safety to
14 the public the practice authorized by her license, as set forth above in paragraphs 13 - 22.

15 **FOURTH CAUSE FOR DISCIPLINE**

16 (Mental or Physical Illness Affecting Competency)

17 26. Respondent is subject to disciplinary action under section 822 of the Code in that
18 her ability to safely practice as a registered nurse is impaired because the Respondent is mentally
19 ill, or physically ill affecting competency, as set forth above in paragraphs 13 - 22.

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21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein
23 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


24 1. Revoking or suspending Registered Nurse License Number 542727, issued to Lori
25 Sue Schroeder;

26 2. Ordering Lori Sue Schroeder to pay the Board of Registered Nursing the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 11/17/09


LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant